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Attorneys for Petitioner and Plaintiff
ADRIAN RISKIN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

ADRIAN RISKIN,

Petitioner and Plaintiff,

VS.

CITY OF LOS ANGELES,

Respondent and Defendant.

Case No.: 19STCP05266

**DECLARATION OF ABENICIO
CISNEROS IN SUPPORT OF
PETITIONER’S MOTION FOR WRIT OF
MANDATE**

DATE: November 11, 2020

TIME: 1:30 p.m.

DEPT: 85

JUDGE: HON. JAMES C. CHALFANT

I, Abenicio Cisneros, declare as follows:

1. I am counsel for Petitioner Adrian Riskin in the above-captioned action. I am over the age of eighteen and have personal knowledge of the facts set forth in this declaration. If called I could and would testify competently to the matters stated herein.

2. After Petitioner filed this lawsuit, I worked with the City's counsel to negotiate a production of records. The City produced – via email to myself – email records in response to the

1 Williams-Westall Request on January 17, 2020. The production took the form of a single PDF
2 containing 1,115 pages including PDF versions of emails and attachments. The PDF was very
3 lightly redacted and the large majority of pages contain no redactions.

4 3. On January 27, 2020, I contacted opposing counsel and requested that the City
5 produce records in MBOX format as Petitioner originally requested. The City responded that day
6 indicating that, “generally speaking,” it does not provide email records in MBOX format. On
7 February 13, 2020, the City confirmed that it would not provide records in MBOX format. *A true*
8 *and accurate copy of my January 27, 2020 communication to the City, its response the same day,*
9 *and its February 13 communication are attached as Exhibit A.*

10 4. On May 15, 2020, in advance of the June 25, 2020 trial setting conference in this
11 matter, I again communicated to the City that Petitioner is requesting all emails – including those
12 the City had yet to produce in response to the Garcetti Request and Huizar Request – in MBOX
13 format. I indicated that if the City declined to produce in MBOX format, Petitioner would likely
14 seek relief from this Court. *A true and accurate copy of the May 15, 2020 communication to the*
15 *City is attached as Exhibit B.*

16 5. The parties continued to meet and confer on the issue, but the parties could not come
17 to a resolution. Petitioner continued to request the records in MBOX format, and maintained that
18 MBOX files can be edited with a text editor, but the City continued to assert that it would only
19 produce the records in PDF format because of the need to make redactions to the production.

20 6. On July 29, 2020, the City produced email records in response to the Garcetti
21 Request and Huizar Request. The Garcetti production consisted of 3,201 pages of emails and
22 attachments spread over two PDFs and the Huizar production consisted of 6,498 pages of emails
23 and attachments spread over three PDFs. Again, the productions were only lightly redacted and the
24 large majority of pages contained no redactions. While it is difficult to ascertain the total number of
25 emails produced in the PDFs, the total number is far fewer than the City’s pre-production estimates
26 and the City confirmed to me that its ITA department overestimated the number of responsive
27 records.

1 I declare under perjury under the laws of the State of California that the foregoing is true and
2 correct. Executed on October 13, 2020 at Sonora , California.

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4 _____

5 Abenicio Cisneros
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EXHIBIT A



Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Adrian Riskin - 05266 - Forms Request

Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Mon, Jan 27, 2020 at 4:48 PM

To: Bethelwel Wilson <bethelwel.wilson@lacity.org>

Cc: Joseph Wangler <josephwanglerlaw@gmail.com>

Bethelwel,

I hope you had a nice weekend.

Thank you for this production of records. My client had a question: the request asked for the Williams-Westall records in MBOX format (see Exhibit D to the Petition). Practically speaking, receiving the records in the MBOX format makes them much more usable for my client's purposes as compared to a pdf. As such, my client is requesting that the records be produced in MBOX. Let me know if you have any questions about that.

Also, on the other records, my impression is that we're still waiting for an update on the count from ITA. Let me know if there's anything else you need from me on this in the meantime.

As always, thank you for your efforts on this matter.

Best,
Abenicio Cisneros
CApublicrecordslaw.com
acisneros@CApublicrecordslaw.com
(707) 653-0438

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The information contained in this communication may contain confidential and/or privileged information. It is intended solely for use by the recipient and others authorized to receive it. If you are not an intended recipient you must not use, copy, disclose or take any action based on this message or any information herein. If you have received this message in error, please advise the sender immediately by reply e-mail and delete this message. Thank you for your cooperation

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Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Adrian Riskin - 05266 - Forms Request

Bethelwel Wilson <bethelwel.wilson@lacity.org>

Mon, Jan 27, 2020 at 8:14 PM

To: Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Cc: Joseph Wangler <josephwanglerlaw@gmail.com>

Hello Abencio,

I will check with out third-party service provider to see if they can provide the records in box format. Generally speaking, we are unable to since we are unable to provide redacted documents in this format. We have explained this to Adrian ad nauseum, and in consequence, he has been accepting redacted documents via pdf from us. I have been emailing ITA every few days regarding your question re duplicates. They tend to be overwhelmed with requests so they are super slow to respond. That being said, I will do everything within my ability to give you a response asap. Thank you for your continued patience.

Warm Regards,

[Quoted text hidden]

[Quoted text hidden]

Riskin v City of Los Angeles (ITA) document production (settlement)

Bethelwel Wilson <bethelwel.wilson@lacity.org>

Thu, Feb 13, 2020 at 1:41 PM

To: Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Cc: Joseph Wangler <josephwanglerlaw@gmail.com>

Good Afternoon Abenicio,

Thank you for your email. The City stands by its representation that it is unable to provide redacted documents in mbox format, so we will not satisfy the Adrian's production preferences but will continue to produce responsive documents via pdf format as we have always done. Regarding the Huizar and Garcetti requests, I will have ITA process the requests as expressed in your recent email so that I can begin reviewing and redacting the records. Given the more than 20,000 emails these two requests will generate, in addition to other voluminous requests Adrian has in the CPRA queue which will most certainly expand each week, I conservatively estimate that it will take 4-5 months to process both requests. Of course, I will send you the production results of each request individually as I finish them. I will apprise you if my estimate changes.

Warm Regards,

[Quoted text hidden]

--

Bethelwel Wilson

Deputy City Attorney

General Counsel Division

Los Angeles City Attorney's Office

[200 N. Main Street, 8th Floor](#)

City Hall East, Mail Stop 140

Los Angeles, CA 90012

bethelwel.wilson@lacity.org

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EXHIBIT B



Riskin v City of Los Angeles - 19STCP05266 - Notice of TSC and MBOX production

Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Fri, May 15, 2020 at 9:37 AM

To: Bethelwel Wilson <bethelwel.wilson@lacity.org>

Cc: Joseph Wangler <josephwanglerlaw@gmail.com>

Bethelwel,

I hope this message finds you safe and well during these difficult times.

Attached find the notice of continued trial setting conference in this matter. The TSC is now set for June 25, 2020.

In advance of the TSC, my client is again requesting that the emails at issue be provided in MBOX format. Under the CPRA, a requestor is entitled to electronic records, such as emails, in native format, such as MBOX. See, e.g., Cal. Gov. Code § 6253.9.

The Williams-Westwall request explicitly requested records in MBOX format. For the Garcetti request, the ITA "FOIA/eDiscovery Request Form," that the City required Mr. Riskin to submit, states in bold, red, capitalized letters at the bottom of the form "NOTE: THE SYSTEM CAN ONLY PROVIDE SEARCH RESULTS IN MBOX FORMAT." For the Huizar request, Mr. Riskin clearly expressed his expectation that the records would be provided in MBOX format when negotiating with the City regarding production. ("I know for certain that number is within the City's ability to process as the City returned precisely that many emails in two MBOX files in response to request 18-1993, made by an associate of mine...However in the spirit of cooperation I am willing to limit my request to the chronologically latest 11,121 emails in the MBOX file. As I'm sure you're aware, an MBOX file is a text file with only very light formatting.")

In addition to my client requesting MBOX records, and having a right to them, and the City's ITA form expressly stating MBOX files would be produced, there is a drastic practical difference between receiving files in MBOX format and PDF format. The City produced the Williams-Westall emails as a 1115 page, non-searchable pdf. The emails are in no discernable order. There is no metadata. The records cannot be easily organized, keyword searched, or posted for public review (except in their current difficult format). Producing in the native MBOX format solves each of these challenges and is in keeping with the right of access codified in the CPRA generally, as well as the specific provision found in § 6253.9.

Please let me know whether the City is willing to reverse its previously-stated position and produce the requested emails in native MBOX format. If the City is unwilling to produce records in MBOX format, my expectation is that Petitioner will seek a court date at the upcoming June TSC.

Please let me know if you have any questions. If you would like to setup a time to discuss, I would be happy to schedule a call.

Thank you.

Best,
Abenicio Cisneros
CApublicrecordslaw.com
acisneros@CApublicrecordslaw.com
(707) 653-0438

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Riskin v ITA Notice of Continuance June 25 .pdf

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